

DISTRICT COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. CROIX

IDONA WALLACE

v.

KMART CORPORATION

1:02-cv-107

**ERROL STANLEY, NIGEL CHARLES,
MELVIN NEAL, JOSEPH SONNY,
WRANDA DAVIS**

v.

**ST. CROIX BASIC SERVICES, INC., BASIC
INDUSTRIES, INC., HOVENSA, L.L.C., and
AMERADA HESS CORPORATION**

1:03-cv-55

FORREST THOMAS

v.

**CENTENNIAL COMMUNICATIONS
CORP., CENTENNIAL CARIBBEAN
HOLDING CORP., and CENTENNIAL
USVI OPERATIONS CORP.**

1:03-cv-163

MARK VITALIS,

v.

**SUN CONSTRUCTORS, INC., RICHARD
“DOC” LANGNER, and EXCEL GROUP,
INC.**

1:05-cv-101

Wallace v. Kmart Corp.

1:02-cv-107

Order Denying Plaintiffs' Motion to Vacate

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PATRICE CANTON

1:05-cv-143

v.

KMART CORPORATION

GLENFORD RAGGUETTE

1:06-cv-173

v.

PREMIER WINES AND SPIRITS, LTD.

TERRANCE ALEXIS

1:07-cv-91

v.

**HOVENSA, L.L.C., and HESS f/k/a
Amerada Hess Corporation**

HELEN JAMES-STEELE

1:04-CV-123

v.

FORD MOTOR COMPANY

TO: See attached distribution list

**ORDER DENYING PLAINTIFFS' MOTION TO VACATE AUGUST 17, 2010[,]
DISCOVERY ORDER IN COMPLIANCE WITH AUGUST 13, 2010[,] **ORDER OF**
THE THIRD CIRCUIT COURT OF APPEALS**

THIS MATTER came before the Court upon Plaintiffs' Motion to Vacate August 17, 2010[,] Discovery Order in Compliance with August 13, 2010[,] Order of the Third Circuit Court of Appeals (1:02-cv-107, Docket No. 298). This order is issued without necessity of response.

At the outset, the Court notes that Plaintiffs' motion, although filed in the cases that have been "associated" for the purposes of the disqualification issue, centers upon an order entered by Judge Savage in the case *Bergan v. Kmart Corporation*, 1:07-cv-120, a case in which Plaintiff Bergan has not filed a motion to recuse and that has not been joined as an associated case with the other matters. Even though the Third Circuit lists Bergan as a petitioner and cites the case number in its order dated August 13, 2010, this Court has not administratively or otherwise joined *Bergan* with the other cases associated for the purposes of the disqualification issue.

Assuming, *arguendo*, that the undersigned has the authority to consider this particular motion to vacate, the Court will deny the motion. The order at issue specifically references a previous order (Docket No. 91), entered July 6, 2010, in which the Court directed Plaintiff Bergan's counsel to file a statement. This directive is not in the nature of discovery. Even if one could, somehow, characterize the order as a "discovery" order, as the undersigned already has determined, nothing in the order issued by the Third Circuit

restricts or prevents or otherwise prohibits Judge Savage from enforcing or requiring compliance with any previous order(s) he has entered.

Accordingly, it is hereby **ORDERED** that Plaintiffs' Motion to Vacate August 17, 2010[,] Discovery Order in Compliance with August 13, 2010[,] Order of the Third Circuit Court of Appeals (1:02-cv-107, Docket No. 298) is **DENIED**.

ENTER:

Dated: August 26, 2010

/s/ George W. Cannon, Jr.
GEORGE W. CANNON, JR.
U.S. MAGISTRATE JUDGE

ECF: Lee J. Rohn, Esq.
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